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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,083	09/26/2001	Earney E. Stoutenburg	FDC 0129 PUS	3346

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EXAMINER

MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/965,083

Applicant(s)

STOUTENBURG ET AL.

Examiner

James S McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

1. Applicant's submittal of an amendment was entered on July 16, 2004, wherein:
 - claims 15-26 are pending;
 - claims 1-14 have been canceled;
 - claim 24 has been amended; and
 - claims 25 and 26 have been added.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 15, 16, 23, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. US 2003/0195811 A1 (hereinafter "Hayes").

Regarding claims 15 and 25, Hayes discloses a system including a host computer (12) and a terminal (see paragraph 0027), the host computer and terminal communicating information related to the delivery and confirmation of a shipment (see paragraph 0049) and further including the host transmitting a notice to the terminal indicating that the shipment has been sent (see Figure 5D). It is noted that Hayes discloses automatic receipt acknowledgement.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 16-22, 24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes in view of U.S. Patent No. 5,638,283 (hereinafter "Herbert").

Hayes discloses all the elements as set forth above, but fails to disclose inhibiting operation of a terminal and enabling operation of a terminal.

Herbert teaches the use of inhibiting operation of a terminal and enabling operation of a terminal when conditions for operating that terminal provide a security risk (see column 4, lines 38-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hayes with the inhibiting feature taught by Herbert, because preventing use of a terminal during potential security lapses helps reduce the chance of damage from the potential security problem.

Response to Arguments

6. Applicant's arguments filed July 16, 2004 have been fully considered but they are not persuasive.

On page 5, fourth paragraph, Applicant argues that Hayes fails to disclose a host computer is "operable to automatically transmit a message to the recipient requesting

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acknowledgement of receipt of inventory if the electronic acknowledgement is not received within a first predetermined amount of time.” The Examiner respectfully disagrees. Host computer (12) as clearly shown in Figure 1 connects various parties of a business transaction. As set forth in paragraph [0049] on page 5, Hayes discloses automatic request for receipt acknowledgement between the service provider and the customer. It is inherent that the request for receipt would be generated after a predetermined period of time and not merely at a randomly selected point in time.

In the paragraph bridging pages 5-6, Applicant argues that the combination of Hayes and Herbert is improper based on a failure by the Examiner to establish proper motivation for combining the references. The Examiner respectfully disagrees. Both Hayes and Herbert are related to terminals for aiding delivery of items between various parties. As set forth above, Hayes lacks the required disclosure of inhibiting terminal if certain conditions are met. The limitations following the “if” statement are not positively claimed. The Examiner is able to meet the claimed limitations by showing either of the alternatives to the “if” statement. In this case, Hayes discloses the alternative to Applicant’s “if” statement, wherein if the terminal is instructed to print message then operation of the terminal is not inhibited. Herbert is merely added to disclose the teaching of inhibiting operation of a terminal if it is determined later in prosecution that Applicant’s “if” statements are positive limitations.

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Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

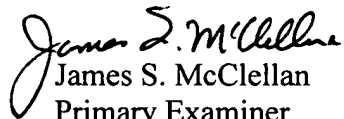
Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

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(703) 872-9306 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington, VA, 7th floor receptionist.


James S. McClellan
Primary Examiner
A.U. 3627

jsm
October 28, 2004